

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

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|----------------------------------|---|----------------------------------|
| UNITED STATES OF AMERICA, |) | |
| |) | |
| v. |) | CRIMINAL ACTION 09-261-KD |
| |) | |
| DAVID LAMAR SANDERS, |) | |
| Defendant. |) | |

MEMORANDUM OPINION AND ORDER

This matter is before the Court on Defendant David Lamar Sanders' timely response to the Court's preliminary determination that Defendant is not eligible for a sentence reduction pursuant to 18 U.S.C. § 3582(c)(2) and Sentencing Guidelines Amendment 750 because his sentence was based on the career offender guideline rather than on a sentencing range that has been subsequently lowered by the Sentencing Commission. (Doc. 33).

In its January 4, 2012 order directing Defendant to show cause as to why his motion for a sentence reduction should not be denied, the Court observed that the notes to Section 1B1.10 of the Sentencing Guidelines state that courts may not reduce a defendant's sentence where, because of the operation of another guideline (e.g., U.S.S.G. § 4B1.1, the career offender guideline), application of a retroactive amendment to the Guidelines does not have the effect of lowering the defendant's guideline range. See Doc. 32 at 2 (quoting U.S. Sentencing Guidelines Manual § 1B1.10 cmt. n.1 (2011)). Defendant has responded that his family circumstances and post-conviction conduct in prison warrant a sentence reduction, but Defendant has not addressed the Court's finding that it is without authority to grant Defendant the relief that he seeks. Similarly, the nearly one-dozen letters that the Court has received from Defendant's family and friends imploring the Court to reduce Defendant's sentence fail to address the fact that the Court

lacks the jurisdiction necessary to do so.

Accordingly, whereas Defendant is ineligible for a sentence reduction pursuant to 18 U.S.C. § 3582(c)(2) and Amendment 750, his motion (Doc. 33) is due to be **DENIED** by separate order.

The Clerk is **DIRECTED** to send a copy of this Memorandum to Defendant by U.S. Mail.

DONE and **ORDERED** this the 3rd day of **February 2012**.

/s/ Kristi K. DuBose

KRISTI K. DuBOSE

UNITED STATES DISTRICT JUDGE